



In the Matter of )  
)

Distribution of 1999, 2000 and 2001 )  
Digital Audio Recording Royalty Funds )  
\_\_\_\_\_)

Docket No. 2002-6 CARP DD 99-01

LIBRARY  
OF  
CONGRESS

## ORDER

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OFFICE

On February 1, 2002, the Library of Congress published a list of 46 names of arbitrators who are eligible to serve on a Copyright Arbitration Royalty Panel (CARP) during 2002 and 2003. 67 FR 5000 (February 1, 2002). Under the rules governing the CARPs, the parties to a proceeding may state their objections to one or more arbitrators on the list during the 45-day pre-controversy discovery period. 37 C.F.R. §§251.4 and 251.32.

Copyright  
Arbitration  
Royalty  
Panels

The 45-day pre-controversy discovery period for this proceeding begins on January 15, 2003, with the filing of written direct cases and is scheduled to end on February 28, 2003. See Order, Docket No. 2002-6 CARP DD 99-01 (October 21, 2002). Accordingly, comments and objections to any arbitrator on the list, including comments on the listed conflicts appended to this Order, must be filed with the Office on or before February 28, 2003.

P.O. Box 70977  
Southwest  
Station  
Washington  
D.C. 20024

Under §251.32(a), all nominated arbitrators are required to submit confidential financial disclosure forms, which are reviewed by a committee within the Library to "determine what conflicts of interest, if any, exist." 37 C.F.R. §251.32(a). Review of the financial disclosure forms submitted by the nominees is a time-consuming, two-step process. First, the committee determines which arbitrators are conflict-free for any proceeding that may occur during the two-year period during which they are eligible to serve. Then, it identifies conflicts for a specific proceeding.

Telephone:  
(202)707-8380

The committee has recently finished its review. The Office is now providing the parties with the list of identified conflicts for their consideration. Parties will have 45 days in which to review the attached list of conflicts and to file their comments with the Office. Thus, the 45-day period serves two purposes: 1) it gives the Office sufficient time to complete the selection and hiring process before the initiation of the arbitration, and 2) it provides ample time to the parties to review the attached list of conflicts and to file their comments. Accordingly, all objections and comments about the arbitrators are due on or before February 28, 2003.

Facsimile:  
(202)252-3423

### List of Identified Conflicts

The Library of Congress is complying with the provisions of §252.32 by providing the attached list to the parties to the 1998 -1999 cable royalty distribution. As provided in §251.32(b)(2)(iii), the list does not contain the names of the affected arbitrators, but rather identifies the nature of the conflict of interest. The list is to be used by the parties to the cable distribution proceeding in formulating their objections to listed arbitrators as provided in §251.45. After the Library has received filings pursuant to §§251.4 and 251.32 from all parties to this proceeding, the Library shall proceed with the selection of arbitrators.

The Library has arranged the conflict of interest list in chart form so that the parties may easily identify the nature of the conflicts for a particular arbitrator. Two boxes have been provided adjacent to the name of each arbitrator, allowing the parties to indicate with a check whether or not they would be willing to waive specific conflicts. The Library has listed all conflicts for a

particular arbitrator to permit the parties to make an overall evaluation of the arbitrator, instead of listing the conflicts separately and asking the parties to respond only to the identified conflict. The financial information provided by the arbitrators falls into four distinct categories: earned income, pre-employment income, unearned income, and self-identified conflicts.

Earned income means all income received during the preceding twelve months derived as a result of employment or personal effort, including, but not limited to the following: compensation for services, including fees, commissions and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rent; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; and distributive share of partnership income. The amount of the earned income is not included and was not provided to the Librarian as part of the financial disclosure statement.

Unearned income identifies the entities from which the listed arbitrators currently derive unearned income or in which they hold financial assets (stocks, etc.). Unearned income consists of rents, royalties, dividends, interest, capital gains, and similar amounts received as a return on investments. The amount and/or value of the unearned income and assets is not included and was not provided to the Librarian as a part of the financial disclosure statement.

Income derived from pre-employment identifies the entities by which listed arbitrators have been employed within the past five years. Employment includes any business relationship involving personal services including, but not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee. The value of the employment, as well as its nature and extent are not identified, and were not provided to the Librarian as part of the financial disclosure statement.

The self-identified category includes those entities which certain listed arbitrators identified as representing a potential conflict of interest. The financial disclosure statement completed by each listed arbitrator requested that they identify any entities which they knew would represent a conflict of interest in a CARP proceeding, and asked whether they would be willing to dispose of the financial interest and/or disclose it to the parties. However, those arbitrators willing to disclose these acknowledged conflicts were instructed not to dispose of these interests at this time.

Waiver of a conflict would enable the listed arbitrator with the conflict to remain eligible for selection in the cable distribution proceeding. The parties are not obligated to respond to the attached list, but all parties are encouraged to return it. For the reasons stated herein, parties who return the completed chart to the Office of the Copyright General Counsel's Office must do so on or before February 28, 2003, by 5:00 pm. If sent by mail, the list should be addressed to Copyright Arbitration Royalty Panel, PO Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, it should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-403, First Street and Independence Avenue, SE, Washington, DC 20540.

Wherefore, **IT IS ORDERED** that any party who wishes to file objections to any arbitrator, in accordance with 37 C.F.R. §§251.4 and 251.32, must do so on or before February 28, 2003.

**SO ORDERED**

Marybeth Peters  
Register of Copyrights

BY: \_\_\_\_\_

  
William J. Roberts, Jr.  
Senior Attorney

**DATED:** January 14, 2003

Name of Party: \_\_\_\_\_

**IDENTIFIED CONFLICTS  
FOR NOMINATED ARBITRATORS- 2002-2003**

**CONFLICTS**

**WILLING TO WAIVE CONFLICTS**

Yes

No

**Arbitrator #1:**

☐☐

**A. Earned Income**

- ▶ Provident Music Group
- ▶ Brentwood Music Group, Inc.

**B. Pre-employment**

- ▶ Provident Music Group
- ▶ CBS Cable Networks, Inc.
- ▶ David Dean
- ▶ Mojave Music
- ▶ William Byrd Productions
- ▶ Hot Hits, Inc.
- ▶ OH Boy Records
- ▶ Papago Music, Inc.
- ▶ Many other similar interests listed. If considering waiver of conflict, contact Copyright Office for complete list.

**C. Self-Identified Conflicts**

- ▶ David Dean d/b/a Rainbow at Midnight Records
- ▶ Inflight Entertainment, Inc.
- ▶ Integrity Inc.
- ▶ Marty Robbins, Inc.
- ▶ Brentwood Music, Inc.
- ▶ Zomba Recording Company
- ▶ Estate of Marizona Robinson
- ▶ Z Music, Inc.
- ▶ Other similar interests listed. If considering waiver of conflict, contact Copyright Office for complete list.

**Arbitrator #2**

☐☐

**A. Assets and Unearned Income**

- ▶ AOL/Time Warner
- ▶ General Electric

**WILLING TO WAIVE CONFLICTS**YesNo**Arbitrator #3**☐☐**A. Earned Income**

- ▶ 3<sup>rd</sup> Eye Entertainment, LLC
- ▶ Ames, Roy C.
- ▶ Bally Boy Entertainment, LLC
- ▶ Fishhead Music
- ▶ Gulf Coast Music, LLC
- ▶ Prime Entertainment Group
- ▶ River Region Sound, LLC
- ▶ Sound of New Orleans

**B. Pre-employment**

- ▶ G-Money
- ▶ Iguanas
- ▶ 1 Shot Records
- ▶ Adversity Records
- ▶ Dinosaur Records
- ▶ Funky Touch
- ▶ Numerous other performers and record companies listed. If considering a waiver, contact the Copyright Office for a complete list.

**Arbitrator #4**☐☐**A. Self-Identified Conflicts**

- ▶ States that "E.W. Scripps and others in that industry" are clients of his firm.

**Arbitrator #5**☐☐**A. Assets and Unearned Income**

- ▶ AOL/Time Warner stock
- ▶ News Corp. Ltd.

**B. Self-Identified Conflicts**

- ▶ "Modest" stock holdings

**Arbitrator #6**☐☐**A. Assets and Unearned Income**

- ▶ AOL stock
- ▶ General Electric

**WILLING TO WAIVE CONFLICTS****Yes****No**☐☐**Arbitrator #7****A. Earned Income & Pre-employment**

- ▶ General Partner in 1500 member law firm Jones, Day, Reavis, & Pogue. This firm has numerous clients in the entertainment and intellectual property field.  
If considering a waiver, contact the Copyright Office for a complete list.

**Arbitrator #8**☐☐**A. Pre-employment**

- ▶ Gaylord Entertainment
- ▶ (Clients in the entertainment industry undisclosed)

**Arbitrator #9**☐☐**A. Earned Income**

- ▶ Did not respond to request for additional information.

**Arbitrator #10**☐☐**A. Assets and Unearned Income**

- ▶ AOL/Time Warner stock
- ▶ Viacom stock
- ▶ General Electric

**Arbitrator #11**☐☐**A. Assets and Unearned Income**

- ▶ AOL/Time Warner stock
- ▶ Tribune Co. stock

**Arbitrator #12**☐☐**A. Pre-employment**

- ▶ Baltimore Orioles Designated Hitters Club (volunteer organization)

**Arbitrator #13**☐☐**A. Assets and Unearned Income**

- ▶ AT&T Stock